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JUN 14 2005

OFFICE OF PETITIONS

In re Application of
Mark Dinsmore
Application No. 10/790,635
Filed: March 1, 2004
Attorney Docket No. 56249(PHLL-155RE)

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DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 23, 2005, to revive the above-identified application.

This is also a decision on the renewed petition under 37 CFR 1.47(b), filed May 23, 2005.

Petition under 37 CFR 1.137(b)

This application became abandoned for failure to reply timely to Notice to File Missing Parts of Reissue Application mailed on May 4, 2004, which set forth a two-month extendable period to respond. Petitioner obtained an extension of time for response within the fourth month. Accordingly, the application became abandoned on November 5, 2004. A Notice of Abandonment was mailed on March 22, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition under 37 CFR 1.137(b) is **granted**.

Petition under 37 CFR 1.47(b)

Petitioner stated that a copy of the application papers was presented to Mark Dinsmore, the non-signing inventor; however, Mr. Dinsmore refused to sign the declaration naming him as the sole inventor. Additionally, petitioner showed that Carl Zeiss AG has a proprietary interest by submitting a copy of an "Assignment of Patent Rights" to Photoelectron Corporation, which in turn assigned the application to Carl Zeiss AG. Lastly, petitioner demonstrated that such action is necessary to prevent irreparable damage, and paid the requisite petition fee.

The petition under 37 CFR 1.47(b) is **granted**.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to the Office of Initial Patent Examination.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



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25 Wadsworth Road
Sudbury, MA 01776

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of :
Mark Dinsmore :
Application No. 10/790,635 :
Filed: March 1, 2004 :
Title: Optically Driven Therapeutic Radiation :
Source :

LETTER

Dear Mr. Dinsmore:

You are named as the sole inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a sole inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina Tartera Donnell

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